

REMARKS

Applicant has reviewed the Examiner's Office Action dated May 3, 2004.

Applicant has not amended either the drawings, or the specification or the claims.

Claims 1-46 remain pending in the application.

The Examiner rejected claims 1-46 under 35 U.S.C. 103 as being obvious over Hodosh et al (US Patent No. 6,116,045) in view of Johnson et al (US Patent No. 4,741,176).

Applicant provides the following remarks with respect to the Examiner's rejection of the claims under 35 U.S.C. 103.

Applicant traverses the rejection of claims 1-46 as being obvious over Hodosh et al in view of Johnson et al. In summary, the Examiner stated that Hodosh et al disclose an insulated foam container comprising an interior volume (22) and an ice sheet pouch (80) (see Fig. 3 in Hodosh) into which ice cubes are inserted and that Johnson et al disclose an ice sheet with a plurality of spaced apart encapsulated ice cube holders. The Examiner stated that it would have been obvious to modify the ice pouch of Hodosh et al with the encapsulated spaces for ice cubes as taught by Johnson et al to provide a better means of cooling contact for a beverage or food source.

Applicant's claim 1 includes "an ice sheet including a plurality of encapsulated spaced apart refrigerant cubes attached to said outer shell along one or more interior walls of said container". The ice pouch of Hodosh et al is not attached to an outer shell along an interior wall. As Illustrated in Fig. 3 and further in Fig. 12b the ice pouch 80 and the ice cubes 426 are free to move around and are not attached to the container or case 20. Similarly, the freezer pack insert 16 of Johnson et al is removable (its an "*insert*") and is not described as attached to the cooler 10. Consequently, neither Hodosh et al nor Johnson et al shows an ice sheet (or any cooling medium) attached to an outer shell or wall of a container.

This claim limitation is simply not disclosed in either reference yet is an important feature of the present invention as claimed in claim 1 and as claimed in various ways in the other independent claims (8, 15, 22, 30, 35, 40 and 44) in the application.

Further, if you try to combine the pouch 80 of Hodosh et al with the freezer pack insert 16 of Johnson et al the combination doesn't work. In column 2, lines 3-8 of Johnson et al the freezer pack insert 16 is described as being designed to have a "hollow cylindrical shape". This shape would be unsuitable for use in place of the pouch 80 inside the case 20 of Hodosh et al which has a generally rectangular or prismatic shape.

Applicant believes the rejection under 35 U.S.C. 103 is not apply since important claim elements are simply not disclosed in the references and since the references can not in any event be combined to form a workable result.

CONCLUSION

In accordance with the Remarks included in this Amendment the Examiner's rejection under 35 U.S.C. §103 should be overcome. Applicant has reviewed the other references Hart (US Patent No. 5,975,336) and Spitler (US Patent No. 5,005,374) supplied by the Examiner and does not believe that they render claims 1-46 unpatentable either when considered alone or in combination with any other references. It is believed that the claims (claims 1-46) are in a condition for allowance. In light of the forgoing, reconsideration of the application and of the claims is hereby requested, and a Notice of Allowance is earnestly solicited.

Respectfully Submitted,



John Horn
Attorney for Applicant
Reg. No. 28,803

John Horn
Patent Attorney
W68N336 Palmetto Ct.
Cedarburg, WI 53012
Telephone: 262-375-0376
Facsimile: 262-376-2927